

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO. 51765/2017

In the matter between:

THE CITY OF CAPE TOWN

First Applicant

and

THE NATIONAL ENERGY REGULATOR OF SOUTH AFRICA

First Respondent

THE MINISTER OF ENERGY

Second Respondent

CENTRE FOR ENVIRONMENTAL RIGHTS

to be admitted as *Amicus Curiae*

CENTRE FOR ENVIRONMENTAL RIGHTS:

PRACTICE NOTE

1. NAMES OF PARTIES AND CASE NUMBER

The names of the parties and case number appear above.

2. NAMES AND TELEPHONE NUMBERS OF COUNSEL IN THE MOTION

Party

**Counsel, Cell Phone Number and Email
addresses**

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3. NATURE OF MOTION

3.1. The applicant seeks a declaratory order that a determination in terms of section 34 of the Electricity Regulation Act is not required before a new power plant can be established to provide electricity to the City.

4. NATURE OF RELIEF SOUGHT BY THE CER

4.1. The CER seeks to be admitted as *amicus curiae*.

5. ISSUES TO BE DETERMINED

- 5.1. Whether a prior ministerial determination in terms of section 34 of the Act is required to establish a new power plant and supply electricity to the City;
- 5.2. Whether the duty of the State to respect, protect, promote, and fulfil the right to and environment requires it to ensure and facilitate a transition to less harmful renewable electricity capacity;
- 5.3. Whether the harmful impacts to human health, the climate, and the environment more broadly, currently caused by South Africa's electricity generation, predominantly from coal-fired power stations require a rapid and urgent transition away from coal;
- 5.4. Whether empowering municipalities to procure renewable energy will assist in the transition from fossil fuels to renewable energy sources;
- 5.5. Whether requiring a section 34 Determination creates regulatory barriers for municipalities and impedes them from fulfilling their constitutional obligations and procuring renewable energy; and
- 5.6. Whether a proper interpretation of section 34 of the ERA is one that empowers municipalities to procure renewable energy.

6. ESTIMATE OF THE PROBABLE DURATION OF THE MOTION

- 6.1. one day.

7. NECESSITY OF READING THE PAPERS

7.1. It is necessary to read all of the papers filed in this application.